



**Steven J. Moser**

Tel: 631-824-0200

[steven.moser@moserlawfirm.com](mailto:steven.moser@moserlawfirm.com)

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December 5, 2022

**VIA ECF**

Hon. Joanna Seybert, USDJ  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Rodriguez et ano. v. Ridge Restaurant, Inc. et al.*  
Case No. 16-cv-00254 (JS)(ARL)-

Dear Judge Seybert:

I represent the Plaintiff Aristides Alfredo Villatoro in the above referenced matter. The Defendants have paid the settlement sum to the Plaintiff, but have not satisfied the judgment entered for attorneys' fees and costs. Furthermore, the payment was made through the Defendants' attorneys' escrow account. Therefore, the Defendants' bank account information was not disclosed.

Plaintiff withdraws the branch of the motion seeking judgment for the compensatory damages settlement. However, the Defendants have not opposed Plaintiff's counsel's motion for an amendment of the June 27, 2022 judgment providing that:

*If any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal therefrom is then pending, the total amount of the judgment shall automatically increase by fifteen percent*

Under NYLL § 663(a),

"[a]ny judgment or court order awarding remedies under this section shall provide that if any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal therefrom is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent." The statute is mandatory. It requires the Court to include the fifteen percent increase of remedies pursuant to § 663(4) in the judgment. It does not permit the Court to defer its application.

*Yaoxing Xu v. Mapo Tofu Food Corp.*, No. 1:17-cv-09087-GHW, 2019 U.S. Dist. LEXIS 246123, at \*7 (S.D.N.Y. Aug. 1, 2019).

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Plaintiff therefore requests that the branch of the motion seeking an amended judgment be granted on default. We will be serving requests for post-judgment discovery pursuant to FRCP 69(a) and CPLR 5224, but remain hopeful that Mr. D'Onofrio satisfies the judgment without the need for further Court intervention.

Respectfully submitted,

*Steven J. Moser*

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CC: All counsel of record via ECF